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DEC 09 2008

In re Application of	:	
NEKOVEE et al.	:	
Application No. 10/517,652	:	DECISION ON PETITION
Filed: December 13, 2004	:	
Attorney Docket No. 36-1875	:	

This is a decision on the petition, filed November 6, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

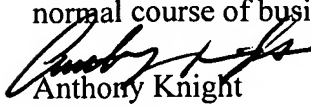
The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office communication of September 16, 2008, which set a one (1) month shortened statutory period for reply. A reply was due on or before October 16, 2008.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on October 16, 2008 of, an amendment. The amendment acknowledged as having been received in the USPTO on October 16, 2008 is of record in the application file. Additionally, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the amendment was timely received in the USPTO.

It should be noted that it has been USPTO policy to wait one (1) month after the period for response has expired before pulling files for abandonment. See MPEP 711.04(a). In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 2445 for appropriate action in the normal course of business on the reply received with petition.


Anthony Knight
Supervisor
Office of Petitions